

# **2009 DRAFTING REQUEST**

## **Bill**

Received: **12/12/2008**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **NO**

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## **Pre Topic:**

DOA:.....Miner, BB0261 -

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## **Topic:**

Dairy cooperative investment tax credit

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## **Instructions:**

See attached

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## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 12/12/2008	jdye 12/12/2008	phenry 12/12/2008	_____	sbasford 12/12/2008		State
/P2	jkreye 01/28/2009	kfollett 01/28/2009	mduchek 01/28/2009	_____	lparisi 01/28/2009		State

FE Sent For:

**<END>**

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/P1	jkreye 12/12/2008	jdyer 12/12/2008	phenry 12/12/2008	_____	sbasford 12/12/2008		State

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**<END>**

*Handwritten notes: 1/28, 1/28, 1/28*

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Dairy cooperative investment tax credit ✓

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See attached

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/P1	jkreye	/P1 12/12 jld	12/12 ph	12/12 ph jrc			

FE Sent For:

**<END>**

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Dairy Cooperative Investment Tax Credit
- Tracking Code: *BB0261*
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner *Am*
  - Phone: 266-1103
  - Email: [andrew.miner@wisconsin.gov](mailto:andrew.miner@wisconsin.gov)
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): High

Intent: Enable dairy cooperatives to claim the tax credit for dairy processing facilities that was included in 2007 Act 20, as outlined in the provisions of 2007 AB 763 as amended (attached). See attached issue paper for background information on this and the meat processing facility tax credit (separate request).

Note: This request may be included either in the 2009-11 budget bill or a FY2009 budget adjustment bill.

Department of Agriculture, Trade and Consumer Protection

2009-11 Biennial Budget Issue Paper  
**Grow Wisconsin's Agriculture Innovation –  
Meat Processing Facility and Dairy Cooperative  
Investment Tax Credits**

**I. Request**

Create a Meat Processing Facility Investment Tax Credit program and a Dairy Cooperative Investment Tax Credit program. The provisions of these tax credits would be the same as those in AB 763 (relating to Dairy Cooperatives) and AB 732 (relating to Meat Processing Facilities) which were introduced but did not pass during the 2007 legislative session. The costs of the provisions are limited to \$300,000 GPR in 2009-10 for the Meat Processing Facility Investment Tax Credit and \$600,000 GPR in 2009-10 for the Dairy Cooperative Investment Tax Credit. Costs would be funded through creation of sum sufficient appropriations through the Department of Revenue.

**II. Background**

**Meat Processing Facilities:** The meat industry has a \$12.3 billion economic impact in Wisconsin and supports over 88,000 jobs directly and indirectly. While Wisconsin is first and foremost the dairy state, the livestock industry is growing in importance. This measure will encourage meat processing facilities to invest in the infrastructure needed to maintain food safety and to expand operations to include new products, increased interstate shipment and the increased demands of

**Dairy Cooperatives:** In 2007 the legislature approved investment tax credits for dairy processing facilities. Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10% of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund.

Under current law, dairy cooperatives are, generally not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion. This provision will allow the members of the cooperative to claim a tax credit for a share of the expansion or modernization expenses incurred by the cooperative.

### **III. Analysis –**

Meat Processing Facilities: This bill provides an income and franchise tax credit for 10% of the amount that a person pays in the taxable year for meat processing modernization or expansion related to the person's meat processing operation. A claimant may claim an aggregate amount of \$200,000 for all fiscal years.

Under the proposal, Commerce will certify meat processing businesses to claim tax benefits and allocate to each business the amount of tax credits it may claim. Commerce would notify the Department of Revenue of all persons that it certifies and of the amount of tax credits it allocates to each person.

This proposal does not limit the number of businesses that the department may designate, but it does limit the amount of tax credits that the department may allocate to businesses to \$300,000 in 2009-10 and \$700,000 each fiscal year thereafter. Each taxpayer may claim not more than \$200,000 over the life of the program, which expires for taxable years beginning before January 1, 2017.

Dairy Cooperatives: This provision would allow members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative beginning in tax year 2009 through tax year 2016. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

It does not limit the number of businesses that the department may designate, but it does limit the amount of tax credits that the department may allocate to businesses to \$600,000 in 2009-10 and \$700,000 each fiscal year thereafter. The maximum amount that can be claimed in aggregate for each dairy cooperative's facility for all tax years is \$200,000.

### **IV. Funding**

The cost of these provisions would be funded through sum sufficient appropriations created in the Department of Revenue.

Meat Processing Facilities – Up to \$300,000 GPR in 2009-10 and \$700,000 GPR in fiscal years 2010-11 through 2016-17.

Dairy Cooperatives – Up to \$600,000 GPR in 2009-10 and \$700,000 GPR in fiscal years 2010-11 through 2016-17.

July 10, 2008

**V. Benefits**

- Increased investment in meat processing facilities and dairy cooperatives;
- Modernized or expanded facilities and equipment, resulting in higher or more efficient milk/meat production and/or sales
- Potential increase in jobs to serve expanded or modernized plants.

**VI. Statutory Authority – see provision in AB 763 and AB 732.**

11/7/P/ stays

DOA Budget

BB0261...

## 2007 ASSEMBLY BILL 763

February 4, 2008 - Introduced by Representatives DAVIS, STEINBRINK, A. OTT, ALBERS, BALLWEG, GARTHWAITE, GRONEMUS, HAHN, JORGENSEN, MURSAU, MUSSER, NASS, NERISON, PETROWSKI, SUDER, TAUCHEN, VRUWINK and M. WILLIAMS, cosponsored by Senators VINEHOUT, KAPANKE, HARSDFORD and OLSEN. Referred to Committee on Agriculture.

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1 AN ACT *to amend* 20.835 (2) (bn), 71.07 (3p) (a) 3. (intro.), 71.07 (3p) (b), 71.07  
2 (3p) (c) 2m. b., 71.07 (3p) (c) 3., 71.07 (3p) (d) 2., 71.28 (3p) (a) 3. (intro.), 71.28  
3 (3p) (b), 71.28 (3p) (c) 2m. b., 71.28 (3p) (c) 3., 71.28 (3p) (d) 2., 71.47 (3p) (a) 3.  
4 (intro.), 71.47 (3p) (b), 71.47 (3p) (c) 2m. b., 71.47 (3p) (c) 3., 71.47 (3p) (d) 2. and  
5 560.207 (2); and *to create* 20.835 (2) (bp), 71.07 (3p) (a) 1m., 71.07 (3p) (c) 2m.  
6 bm., 71.07 (3p) (c) 5., 71.07 (3p) (d) 3., 71.28 (3p) (a) 1m., 71.28 (3p) (c) 2m. bm.,  
7 71.28 (3p) (c) 5., 71.28 (3p) (d) 3., 71.47 (3p) (a) 1m., 71.47 (3p) (c) 2m. bm., 71.47  
8 (3p) (c) 5. and 71.47 (3p) (d) 3. of the statutes; relating to: allowing dairy

8

9

cooperatives to claim the dairy manufacturing facility investment credit and  
making an appropriation

head 10

the budget ✓

TAXATION

INCOME TAXATION

Sub head

### Analysis by the Legislative Reference Bureau

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current

OVER



**ASSEMBLY BILL 763**

law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1

SECTION 1. 20.835 (2) (bn) of the statutes, as created by 2007 Wisconsin Act 20,

2

is amended to read:

3

20.835 (2) (bn) *Dairy manufacturing facility investment credit*. The amounts

4

in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and

5

71.47 (3p) (d) 2.

6

SECTION 2. 20.835 (2) (bp) of the statutes is created to read:

7

20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*

8

*cooperatives*. A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28

9

(3p) (d) 3., and 71.47 (3p) (d) 3.

10

NOTE: BUD  
SECTION 3. 71.07 (3p) (a) 1m. of the statutes is created to read:

11

71.07 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.

12

185 or 193 for the purpose of obtaining or processing milk.

13

SECTION 4. 71.07 (3p) (a) 3. (intro.) of the statutes, as created by 2007 Wisconsin

14

Act 20, is amended to read:

15

71.07 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"

16

means constructing, improving, or acquiring buildings or facilities, or acquiring

17

equipment, for dairy manufacturing, including the following, if used exclusively for

1 dairy manufacturing and if acquired and placed in service in this state during  
2 taxable years that begin after December 31, 2006, and before January 1, 2015, or in  
3 the case of dairy cooperatives, if acquired and placed in service in this state during  
4 taxable years that begin after December 31, 2008, and before January 1, 2017.

5 SECTION 5. 71.07 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,  
6 is amended to read:

7 71.07 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
8 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
9 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
10 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount  
11 of the tax, an amount equal to 10 percent of the amount the claimant paid in the  
12 taxable year for dairy manufacturing modernization or expansion related to the  
13 claimant's dairy manufacturing operation.

14 SECTION 6. 71.07 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin  
15 Act 20, is amended to read:

16 71.07 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
17 by all claimants, other than members of dairy cooperatives, under this subsection  
18 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year  
19 thereafter, is \$700,000, as allocated under s. 560.207.

20 SECTION 7. 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

21 71.07 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
22 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47  
23 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the  
24 maximum amount of the credits that may be claimed by members of dairy  
25 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year

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1 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
2 560.207.

3 SECTION 8. 71.07 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act  
4 20, is amended to read:

5 71.07 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
6 corporations, and dairy cooperatives may not claim the credit under this subsection,  
7 but the eligibility for, and the amount of, the credit are based on their payment of  
8 expenses under par. (b), except that the aggregate amount of credits that the entity  
9 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
10 facilities. A partnership, limited liability company, or tax-option corporation, or  
11 dairy cooperative shall compute the amount of credit that each of its partners,  
12 members, or shareholders may claim and shall provide that information to each of  
13 them. Partners, members of limited liability companies, and shareholders of  
14 tax-option corporations may claim the credit in proportion to their ownership  
15 interest. Members of a dairy cooperative may claim the credit in proportion to the  
16 amount of milk that each member delivers to the dairy cooperative, as determined  
17 by the dairy cooperative.

18 SECTION 9. 71.07 (3p) (c) 5. of the statutes is created to read:

19 71.07 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
20 the credit, based on amounts described under par. (b) that are paid by the dairy  
21 cooperative, for taxable years beginning after December 31, 2008, and before  
22 January 1, 2017.

23 SECTION 10. 71.07 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act  
24 20, is amended to read:

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1           71.07 (3p) (d) 2. If Except as provided in subd. 3.✓ if the allowable amount of  
2           the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~  
3           ~~tax is due under s. 71.02 or 71.08~~, the amount of the claim not used to offset the tax  
4           due shall be certified by the department of revenue to the department of  
5           administration for payment by check, share draft, or other draft drawn from the  
6           appropriation account under s. 20.835 (2) (bn).

7           SECTION 11. 71.07 (3p) (d) 3. of the statutes is created to read:

8           71.07 (3p) (d) 3. With regard to claims that are based on amounts described  
9           under par. (b)✓ that are paid by a dairy cooperative, if the allowable amount of the  
10          claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the  
11          amount of the claim not used to offset the tax due shall be certified by the department  
12          of revenue✓ to the department of administration✓ for payment by check, share draft,  
13          or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

14          SECTION 12. 71.28 (3p) (a) 1m. of the statutes is created to read:

15          71.28 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
16          185 or 193 for the purpose of obtaining or processing milk.

17          SECTION 13. 71.28 (3p) (a) 3. (intro.)✓ of the statutes, as created by 2007

18          Wisconsin Act 20 is amended to read:

19          71.28 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
20          means constructing, improving, or acquiring buildings or facilities, or acquiring  
21          equipment, for dairy manufacturing, including the following, if used exclusively for  
22          dairy manufacturing and if acquired and placed in service in this state during  
23          taxable years that begin after December 31, 2006, and before January 1, 2015, or in  
24          the case of dairy cooperatives, if acquired and placed in service in this state during  
25          taxable years that begin after December 31, 2008, and before January 1, 2017:

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## ASSEMBLY BILL 763

## SECTION 14

1 SECTION 14. 71.28 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,

2 is amended to read:

3 71.28 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
4 subsection and s. 560.207, except as provided in par. (c) 5. for taxable years  
5 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
6 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the  
7 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
8 year for dairy manufacturing modernization or expansion related to the claimant's  
9 dairy manufacturing operation.

10 SECTION 15. 71.28 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin

11 Act 20 is amended to read:

12 71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
13 by all claimants, other than members of dairy cooperatives under this subsection  
14 and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008–09, and in each fiscal year  
15 thereafter, is \$700,000, as allocated under s. 560.207.

16 SECTION 16. 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

17 71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
18 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47  
19 (3p) in fiscal year 2009–10 is \$600,000, as allocated under s. 560.207, and the  
20 maximum amount of the credits that may be claimed by members of dairy  
21 cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year  
22 2010–11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
23 560.207.

24 SECTION 17. 71.28 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act

25 20 is amended to read:

1           71.28 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option  
2           corporations, and dairy cooperatives ✓ may not claim the credit under this subsection,  
3           but the eligibility for, and the amount of, the credit are based on their payment of  
4           expenses under par. (b), except that the aggregate amount of credits that the entity  
5           may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
6           facilities. ✓ A partnership, limited liability company, ~~or~~ tax-option corporation, or  
7           dairy cooperative ✓ shall compute the amount of credit that each of its partners,  
8           members, or shareholders may claim and shall provide that information to each of  
9           them. Partners, members of limited liability companies, and shareholders of  
10          tax-option corporations may claim the credit in proportion to their ownership  
11          interest. Members of a dairy cooperative may claim the credit in proportion to the  
12          amount of milk that each member delivers to the dairy cooperative, as determined  
13          by the dairy cooperative. ✓

14          SECTION 18. 71.28 (3p) (c) 5. of the statutes is created to read:

✓ 15          71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
16          the credit, based on amounts described under par. (b) ✓ that are paid by the dairy  
17          cooperative, for taxable years beginning after December 31, 2008, ✓ and before  
18          January 1, 2017. ✓

19          SECTION 19. 71.28 (3p) (d) 2. of the statutes, ✓ as created by 2007 Wisconsin Act  
20          20, is amended to read:

21          71.28 (3p) (d) 2. If Except as provided in subd. 3., ✓ if the allowable amount of  
22          the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~  
23          under s. 71.23, ✓ the amount of the claim not used to offset the tax due shall be certified  
24          by the department of revenue to the department of administration for payment by

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1 check, share draft, or other draft drawn from the appropriation account under s.  
2 20.835 (2) (bn).

3 **SECTION 20.** 71.28 (3p) (d) 3. of the statutes is created to read:

4 71.28 (3p) (d) 3. With regard to claims that are based on amounts described  
5 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
6 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the  
7 claim not used to offset the tax due shall be certified by the department of revenue  
8 to the department of administration for payment by check, share draft, or other draft  
9 drawn from the appropriation account under s. 20.835 (2) (bp).

10 **SECTION 21.** 71.47 (3p) (a) 1m. of the statutes is created to read:

11 71.47 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
12 185 or 193 for the purpose of obtaining or processing milk.

13 **SECTION 22.** 71.47 (3p) (a) 3. (intro.) of the statutes, as created by 2007  
14 Wisconsin Act 20, is amended to read:

15 71.47 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
16 means constructing, improving, or acquiring buildings or facilities, or acquiring  
17 equipment, for dairy manufacturing, including the following, if used exclusively for  
18 dairy manufacturing and if acquired and placed in service in this state during  
19 taxable years that begin after December 31, 2006, and before January 1, 2015, or in  
20 the case of dairy cooperatives, if acquired and placed in service in this state during  
21 taxable years that begin after December 31, 2008, and before January 1, 2017:

22 **SECTION 23.** 71.47 (3p) (b) of the statutes, as created by 2007 Wisconsin Act 20,  
23 is amended to read:

24 71.47 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
25 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years

1 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
2 claim as a credit against the taxes imposed under s. 71.43, up to the amount of the  
3 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
4 year for dairy manufacturing modernization or expansion related to the claimant's  
5 dairy manufacturing operation.

6 **SECTION 24.** 71.47 (3p) (c) 2m. b. of the statutes, as created by 2007 Wisconsin  
7 Act 20, is amended to read:

8 71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
9 by all claimants, other than members of dairy cooperatives under this subsection  
10 and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year  
11 thereafter, is \$700,000, as allocated under s. 560.207.

12 **SECTION 25.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

13 71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
14 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28  
15 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
16 maximum amount of the credits that may be claimed by members of dairy  
17 cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year  
18 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
19 560.207.

20 **SECTION 26.** 71.47 (3p) (c) 3. of the statutes, as created by 2007 Wisconsin Act  
21 20, is amended to read:

22 71.47 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
23 corporations, and dairy cooperatives may not claim the credit under this subsection,  
24 but the eligibility for, and the amount of, the credit are based on their payment of  
25 expenses under par. (b), except that the aggregate amount of credits that the entity

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## ASSEMBLY BILL 763

## SECTION 26

1 may compute shall not exceed \$200,000 <sup>✓</sup> for each of the entity's dairy manufacturing  
2 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
3 dairy cooperative <sup>✓</sup> shall compute the amount of credit that each of its partners,  
4 members, or shareholders may claim and shall provide that information to each of  
5 them. Partners, members of limited liability companies, and shareholders of  
6 tax-option corporations may claim the credit in proportion to their ownership  
7 interest. Members of a dairy cooperative <sup>✓</sup> may claim the credit in proportion to the  
8 amount of milk that each member delivers to the dairy cooperative, as determined  
9 by the dairy cooperative. <sup>✓</sup>

10 SECTION 27. 71.47 (3p) (c) 5. of the statutes is created to read:

11 71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
12 the credit, based on amounts described under par. (b) <sup>✓</sup> that are paid by the dairy  
13 cooperative, for taxable years beginning after December 31, 2008 <sup>✓</sup> and before  
14 January 1, 2017. <sup>✓</sup>

15 SECTION 28. 71.47 (3p) (d) 2. of the statutes, as created by 2007 Wisconsin Act

16 20 is amended to read:

17 71.47 (3p) (d) 2. If Except as provided in subd. 3., <sup>✓</sup> if the allowable amount of  
18 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~  
19 ~~under s. 71.43,~~ <sup>✓</sup> the amount of the claim not used to offset the tax due shall be certified  
20 by the department of revenue to the department of administration for payment by  
21 check, share draft, or other draft drawn from the appropriation account under s.  
22 20.835 (2) (bn).

23 SECTION 29. 71.47 (3p) (d) 3. of the statutes is created to read:

24 71.47 (3p) (d) 3. With regard to claims that are based on amounts described  
25 under par. (b) <sup>✓</sup> that are paid by a dairy cooperative, if the allowable amount of the

## ASSEMBLY BILL 763

1 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the  
2 claim not used to offset the tax due shall be certified by the department of revenue  
3 to the department of administration for payment by check, share draft, or other draft  
4 drawn from the appropriation account under s. 20.835 (2) (bp).

5 **SECTION 30.** 560.207 (2) of the statutes, as created by 2007 Wisconsin Act 20,  
6 is amended to read:

7 560.207 (2) If the department of commerce certifies a taxpayer under sub. (1),  
8 the department of commerce shall determine the amount of credits to allocate to that  
9 taxpayer. The total amount of dairy manufacturing facility investment credits  
10 allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total  
11 amount of dairy manufacturing facility investment credits allocated to taxpayers  
12 who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal  
13 year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing  
14 facility investment credits allocated to taxpayers who are members of dairy  
15 cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount  
16 of dairy manufacturing facility investment credits allocated to taxpayers who are  
17 members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year  
18 thereafter, may not exceed \$700,000.

19

(END)

**ASSEMBLY AMENDMENT 1,  
TO 2007 ASSEMBLY BILL 763**

February 12, 2008 - Offered by COMMITTEE ON AGRICULTURE.

INSERT  
4-22

1 ~~At the locations indicated, amend the bill as follows:~~

2 ~~1. Page 4, line 22: after that line insert:~~

3 ~~SECTION 71.07~~ <sup>#</sup> 71.07 (3p) (c) 6. of the statutes is created to read:

4 71.07 (3p) (c) 6. No credit may be allowed under this subsection unless the  
5 claimant submits with the claimant's return a copy of the claimant's credit  
6 certification and allocation under s. 560.207. <sup>Q</sup>

INSERT  
7-18

7 ~~2. Page 7, line 18: after that line insert:~~

8 ~~SECTION 71.28~~ <sup>#</sup> 71.28 (3p) (c) 6. of the statutes is created to read:

9 71.28 (3p) (c) 6. No credit may be allowed under this subsection unless the  
10 claimant submits with the claimant's return a copy of the claimant's credit  
11 certification and allocation under s. 560.207. <sup>Q</sup>

12 ~~3. Page 10, line 14: after that line insert:~~

13 ~~SECTION 71.47~~ <sup>#</sup> 71.47 (3p) (c) 6. of the statutes is created to read:

INSERT  
10-14

OVER

*Insert 10-14*

- 1            71.47 (3p) (c) 6. No credit may be allowed under this<sup>✓</sup> subsection unless the  
2            claimant submits with the claimant's return a copy of the claimant's credit  
3            certification and allocation under s. 560.207<sup>✓</sup> *De*

4

*END*

*end of 10-14*

**Kreye, Joseph**

---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Wednesday, January 28, 2009 10:38 AM  
**To:** Kreye, Joseph  
**Subject:** FW: Tax credit bill (change to draft 1117)

Joe,

Please see the email from Jim Matson at the bottom of this email and add this language to the dairy cooperative tax credit draft (1117). Let me know if you have any questions. Thanks - Andrew

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Wednesday, January 28, 2009 10:31 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Pawasarat, Jane - DOA; Weidner, Jenna M - DOA; Kraus, Jennifer - DOA  
**Subject:** FW: Tax credit bill

Andrew,

See Randy's note at the bottom of this and contact the drafter to make the change. It is still unknown whether this will be in the early bill or the budget bill.

Thanks,  
 Jana

---

**From:** Schmiedicke, David P - DOA  
**Sent:** Wednesday, January 28, 2009 10:27 AM  
**To:** Steinmetz, Jana D - DOA  
**Subject:** RE: Tax credit bill

Please change the draft to reflect this proposal. Let me know the implications. I assume we can put it in either the early bill or the big bill.

Thanks.

Dave

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Wednesday, January 28, 2009 10:20 AM  
**To:** Schmiedicke, David P - DOA  
**Subject:** FW: Tax credit bill  
**Importance:** High

Are we supposed to be changing the draft on dairy tax credits? At this point I believe dairy tax credits, meat processing tax credits and the ag chem. Transfer (to pay for the credits) are all in the early bill. Is that correct?

---

**From:** Romanski, Randy - DATCP  
**Sent:** Wednesday, January 28, 2009 9:56 AM  
**To:** Steinmetz, Jana D - DOA  
**Cc:** Walker, William D - DATCP  
**Subject:** FW: Tax credit bill

Jana,

This is the language I was talking about. I'm just checking with DOR and Commerce to make sure they are OK with this.

01/28/2009

I'll get back to you.

Randy

---

**From:** Matson, James K - DATCP  
**Sent:** Tuesday, January 27, 2009 4:35 PM  
**To:** Romanski, Randy - DATCP  
**Subject:** Tax credit bill

Here is some possible language that could be added to the bill:

**SECTION 32m.** 560.207(1) of the statutes is amended to read:

560.207(1) The department of commerce shall implement a program to certify taxpayers, including taxpayers who are members of dairy cooperatives, as eligible for the dairy manufacturing facility investment credit under ss. 71.07(3p), 71.28(3p) and 71.47(3p).

01/28/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1117/P1

JK:jld:ph

RMK<sup>+</sup>KJF

DOA:.....Miner, BB0261 - Dairy cooperative investment tax credit  
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 1-28-09

D-N

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 20.835 (2) (bn) of the statutes is amended to read:

2       20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts  
3       in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and  
4       71.47 (3p) (d) 2.

5       **SECTION 2.** 20.835 (2) (bp) of the statutes is created to read:

6       20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*  
7       *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28  
8       (3p) (d) 3., and 71.47 (3p) (d) 3.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
      reflected in the revised schedule in s. 20.005, stats.

9       **SECTION 3.** 71.07 (3p) (a) 1m. of the statutes is created to read:

10       71.07 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
11       185 or 193 for the purpose of obtaining or processing milk.

12       **SECTION 4.** 71.07 (3p) (a) 3. (intro.) of the statutes is amended to read:

13       71.07 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
14       means constructing, improving, or acquiring buildings or facilities, or acquiring  
15       equipment, for dairy manufacturing, including the following, if used exclusively for  
16       dairy manufacturing and if acquired and placed in service in this state during  
17       taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
18       the case of dairy cooperatives, if acquired and placed in service in this state during  
19       taxable years that begin after December 31, 2008, and before January 1, 2017:

20       **SECTION 5.** 71.07 (3p) (b) of the statutes is amended to read:

21       71.07 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
22       subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
23       beginning after December 31, 2006, and before January 1, 2015, a claimant may



1 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount  
2 of the tax, an amount equal to 10 percent of the amount the claimant paid in the  
3 taxable year for dairy manufacturing modernization or expansion related to the  
4 claimant's dairy manufacturing operation.

5 **SECTION 6.** 71.07 (3p) (c) 2m. b. of the statutes is amended to read:

6 71.07 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
7 by all claimants, other than members of dairy cooperatives, under this subsection  
8 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year  
9 thereafter, is \$700,000, as allocated under s. 560.207.

10 **SECTION 7.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

11 71.07 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
12 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47  
13 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
14 maximum amount of the credits that may be claimed by members of dairy  
15 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year  
16 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
17 560.207.

18 **SECTION 8.** 71.07 (3p) (c) 3. of the statutes is amended to read:

19 71.07 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
20 corporations, and dairy cooperatives may not claim the credit under this subsection,  
21 but the eligibility for, and the amount of, the credit are based on their payment of  
22 expenses under par. (b), except that the aggregate amount of credits that the entity  
23 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
24 facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
25 dairy cooperative shall compute the amount of credit that each of its partners,

1 members, or shareholders may claim and shall provide that information to each of  
2 them. Partners, members of limited liability companies, and shareholders of  
3 tax-option corporations may claim the credit in proportion to their ownership  
4 interest. Members of a dairy cooperative may claim the credit in proportion to the  
5 amount of milk that each member delivers to the dairy cooperative, as determined  
6 by the dairy cooperative.

7 **SECTION 9.** 71.07 (3p) (c) 5. of the statutes is created to read:

8 71.07 **(3p)** (c) 5. A claimant who is a member of a dairy cooperative may claim  
9 the credit, based on amounts described under par. (b) that are paid by the dairy  
10 cooperative, for taxable years beginning after December 31, 2008, and before  
11 January 1, 2017.

12 **SECTION 10.** 71.07 (3p) (c) 6. of the statutes is created to read:

13 71.07 **(3p)** (c) 6. No credit may be allowed under this subsection unless the  
14 claimant submits with the claimant's return a copy of the claimant's credit  
15 certification and allocation under s. 560.207.

16 **SECTION 11.** 71.07 (3p) (d) 2. of the statutes is amended to read:

17 71.07 **(3p)** (d) 2. If Except as provided in subd. 3., if the allowable amount of  
18 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~  
19 ~~tax is due under s. 71.02 or 71.08~~, the amount of the claim not used to offset the tax  
20 due shall be certified by the department of revenue to the department of  
21 administration for payment by check, share draft, or other draft drawn from the  
22 appropriation account under s. 20.835 (2) (bn).

23 **SECTION 12.** 71.07 (3p) (d) 3. of the statutes is created to read:

24 71.07 **(3p)** (d) 3. With regard to claims that are based on amounts described  
25 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the

1 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the  
2 amount of the claim not used to offset the tax due shall be certified by the department  
3 of revenue to the department of administration for payment by check, share draft,  
4 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

5 **SECTION 13.** 71.28 (3p) (a) 1m. of the statutes is created to read:

6 71.28 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
7 185 or 193 for the purpose of obtaining or processing milk.

8 **SECTION 14.** 71.28 (3p) (a) 3. (intro.) of the statutes is amended to read:

9 71.28 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
10 means constructing, improving, or acquiring buildings or facilities, or acquiring  
11 equipment, for dairy manufacturing, including the following, if used exclusively for  
12 dairy manufacturing and if acquired and placed in service in this state during  
13 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
14 the case of dairy cooperatives, if acquired and placed in service in this state during  
15 taxable years that begin after December 31, 2008, and before January 1, 2017:

16 **SECTION 15.** 71.28 (3p) (b) of the statutes is amended to read:

17 71.28 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
18 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
19 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
20 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the  
21 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
22 year for dairy manufacturing modernization or expansion related to the claimant's  
23 dairy manufacturing operation.

24 **SECTION 16.** 71.28 (3p) (c) 2m. b. of the statutes is amended to read:

1        71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
2        by all claimants, other than members of dairy cooperatives, under this subsection  
3        and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year  
4        thereafter, is \$700,000, as allocated under s. 560.207.

5        **SECTION 17.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

6        71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
7        by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47  
8        (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
9        maximum amount of the credits that may be claimed by members of dairy  
10       cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year  
11       2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
12       560.207.

13       **SECTION 18.** 71.28 (3p) (c) 3. of the statutes is amended to read:

14       71.28 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
15       corporations, and dairy cooperatives may not claim the credit under this subsection,  
16       but the eligibility for, and the amount of, the credit are based on their payment of  
17       expenses under par. (b), except that the aggregate amount of credits that the entity  
18       may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
19       facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
20       dairy cooperative shall compute the amount of credit that each of its partners,  
21       members, or shareholders may claim and shall provide that information to each of  
22       them. Partners, members of limited liability companies, and shareholders of  
23       tax-option corporations may claim the credit in proportion to their ownership  
24       interest. Members of a dairy cooperative may claim the credit in proportion to the

1 amount of milk that each member delivers to the dairy cooperative, as determined  
2 by the dairy cooperative.

3 **SECTION 19.** 71.28 (3p) (c) 5. of the statutes is created to read:

4 71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
5 the credit, based on amounts described under par. (b) that are paid by the dairy  
6 cooperative, for taxable years beginning after December 31, 2008, and before  
7 January 1, 2017.

8 **SECTION 20.** 71.28 (3p) (c) 6. of the statutes is created to read:

9 71.28 (3p) (c) 6. No credit may be allowed under this subsection unless the  
10 claimant submits with the claimant's return a copy of the claimant's credit  
11 certification and allocation under s. 560.207.

12 **SECTION 21.** 71.28 (3p) (d) 2. of the statutes is amended to read:

13 71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
14 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~  
15 ~~under s. 71.23~~, the amount of the claim not used to offset the tax due shall be certified  
16 by the department of revenue to the department of administration for payment by  
17 check, share draft, or other draft drawn from the appropriation account under s.  
18 20.835 (2) (bn).

19 **SECTION 22.** 71.28 (3p) (d) 3. of the statutes is created to read:

20 71.28 (3p) (d) 3. With regard to claims that are based on amounts described  
21 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
22 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the  
23 claim not used to offset the tax due shall be certified by the department of revenue  
24 to the department of administration for payment by check, share draft, or other draft  
25 drawn from the appropriation account under s. 20.835 (2) (bp).

1       **SECTION 23.** 71.47 (3p) (a) 1m. of the statutes is created to read:

2       71.47 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
3       185 or 193 for the purpose of obtaining or processing milk.

4       **SECTION 24.** 71.47 (3p) (a) 3. (intro.) of the statutes is amended to read:

5       71.47 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
6       means constructing, improving, or acquiring buildings or facilities, or acquiring  
7       equipment, for dairy manufacturing, including the following, if used exclusively for  
8       dairy manufacturing and if acquired and placed in service in this state during  
9       taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
10      the case of dairy cooperatives, if acquired and placed in service in this state during  
11      taxable years that begin after December 31, 2008, and before January 1, 2017:

12      **SECTION 25.** 71.47 (3p) (b) of the statutes is amended to read:

13      71.47 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
14      subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
15      beginning after December 31, 2006, and before January 1, 2015, a claimant may  
16      claim as a credit against the taxes imposed under s. 71.43, up to the amount of the  
17      tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
18      year for dairy manufacturing modernization or expansion related to the claimant's  
19      dairy manufacturing operation.

20      **SECTION 26.** 71.47 (3p) (c) 2m. b. of the statutes is amended to read:

21      71.47 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
22      by all claimants, other than members of dairy cooperatives, under this subsection  
23      and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year  
24      thereafter, is \$700,000, as allocated under s. 560.207.

25      **SECTION 27.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

1           71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
2       by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28  
3       (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
4       maximum amount of the credits that may be claimed by members of dairy  
5       cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year  
6       2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
7       560.207.

8           **SECTION 28.** 71.47 (3p) (c) 3. of the statutes is amended to read:

9           71.47 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
10       corporations, and dairy cooperatives may not claim the credit under this subsection,  
11       but the eligibility for, and the amount of, the credit are based on their payment of  
12       expenses under par. (b), except that the aggregate amount of credits that the entity  
13       may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
14       facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
15       dairy cooperative shall compute the amount of credit that each of its partners,  
16       members, or shareholders may claim and shall provide that information to each of  
17       them. Partners, members of limited liability companies, and shareholders of  
18       tax-option corporations may claim the credit in proportion to their ownership  
19       interest. Members of a dairy cooperative may claim the credit in proportion to the  
20       amount of milk that each member delivers to the dairy cooperative, as determined  
21       by the dairy cooperative.

22           **SECTION 29.** 71.47 (3p) (c) 5. of the statutes is created to read:

23           71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
24       the credit, based on amounts described under par. (b) that are paid by the dairy

1 cooperative, for taxable years beginning after December 31, 2008, and before  
2 January 1, 2017.

3 **SECTION 30.** 71.47 (3p) (c) 6. of the statutes is created to read:

4 71.47 **(3p)** (c) 6. No credit may be allowed under this subsection unless the  
5 claimant submits with the claimant's return a copy of the claimant's credit  
6 certification and allocation under s. 560.207.

7 **SECTION 31.** 71.47 (3p) (d) 2. of the statutes is amended to read:

8 71.47 **(3p)** (d) 2. If Except as provided in subd. 3., if the allowable amount of  
9 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~  
10 ~~under s. 71.43,~~ the amount of the claim not used to offset the tax due shall be certified  
11 by the department of revenue to the department of administration for payment by  
12 check, share draft, or other draft drawn from the appropriation account under s.  
13 20.835 (2) (bn).

14 **SECTION 32.** 71.47 (3p) (d) 3. of the statutes is created to read:

15 71.47 **(3p)** (d) 3. With regard to claims that are based on amounts described  
16 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
17 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the  
18 claim not used to offset the tax due shall be certified by the department of revenue  
19 to the department of administration for payment by check, share draft, or other draft  
20 drawn from the appropriation account under s. 20.835 (2) (bp).

21 **SECTION 33.** 560.207 (2) of the statutes is amended to read:

22 560.207 **(2)** If the department of commerce certifies a taxpayer under sub. (1),  
23 the department of commerce shall determine the amount of credits to allocate to that  
24 taxpayer. The total amount of dairy manufacturing facility investment credits  
25 allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total



1 amount of dairy manufacturing facility investment credits allocated to taxpayers  
2 who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal  
3 year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing  
4 facility investment credits allocated to taxpayers who are members of dairy  
5 cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount  
6 of dairy manufacturing facility investment credits allocated to taxpayers who are  
7 members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year  
8 thereafter, may not exceed \$700,000.

9 (END)

D-Note

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1117/P2ins  
JK:jld:ph

**Insert 10 - 20**

- 1           **SECTION 1.** 560.207 (1) of the statutes is amended to read:
- 2           560.207 (1) The department of commerce shall implement a program to certify
- 3           taxpayers, including taxpayers who are members of dairy cooperatives, as eligible
- 4           for the dairy manufacturing facility investment credit under ss. 71.07 (3p), 71.28
- 5           (3p), and 71.47 (3p).

**History:** 2007 a. 20.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1117/P2dn

JK:jld:ph

*Date*

*GF*

Andrew:

✓  
I have made the change to s. 560.207 (1) as requested. Please note, however, that the change is completely unnecessary. There is nothing in s. 560.207 (1), as written under current law, that, in conjunction with the changes made in the bill, would prevent or prohibit Commerce from certifying taxpayers who are members of dairy cooperatives.

Joseph T. Kreye  
Senior Legislative Attorney  
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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1117/P2dn  
JK:kjf:md

January 28, 2009

Andrew:

I have made the change to s. 560.207 (1) as requested. Please note, however, that the change is completely unnecessary. There is nothing in s. 560.207 (1), as written under current law, that, in conjunction with the changes made in the bill, would prevent or prohibit Commerce from certifying taxpayers who are members of dairy cooperatives.

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State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1117/P2  
JK:jld&kjf:md

DOA:.....Miner, BB0261 - Dairy cooperative investment tax credit  
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, a person may claim a credit against the person's income or franchise tax liability that is equal to 10 percent of the amount that the person paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation. If the amount of the credit exceeds the amount of the person's tax liability, the person receives a refund. Under current law, dairy cooperatives are, generally, not subject to state income or franchise taxes and, therefore, are not eligible to claim the credit for dairy manufacturing modernization or expansion.

This bill allows the members of a dairy cooperative to claim the credit for the dairy manufacturing modernization or expansion expenses paid by the cooperative. The dairy cooperative determines the amount of the credit that each member may claim, based on the amount of milk each member delivers to the cooperative.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 20.835 (2) (bn) of the statutes is amended to read:

2       20.835 (2) (bn) *Dairy manufacturing facility investment credit.* The amounts  
3       in the schedule to make the payments under ss. 71.07 (3p) (d) 2., 71.28 (3p) (d) 2., and  
4       71.47 (3p) (d) 2.

5       **SECTION 2.** 20.835 (2) (bp) of the statutes is created to read:

6       20.835 (2) (bp) *Dairy manufacturing facility investment credit; dairy*  
7       *cooperatives.* A sum sufficient to make the payments under ss. 71.07 (3p) (d) 3., 71.28  
8       (3p) (d) 3., and 71.47 (3p) (d) 3.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
      reflected in the revised schedule in s. 20.005, stats.

9       **SECTION 3.** 71.07 (3p) (a) 1m. of the statutes is created to read:

10       71.07 **(3p)** (a) 1m. "Dairy cooperative" means a business organized under ch.  
11       185 or 193 for the purpose of obtaining or processing milk.

12       **SECTION 4.** 71.07 (3p) (a) 3. (intro.) of the statutes is amended to read:

13       71.07 **(3p)** (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
14       means constructing, improving, or acquiring buildings or facilities, or acquiring  
15       equipment, for dairy manufacturing, including the following, if used exclusively for  
16       dairy manufacturing and if acquired and placed in service in this state during  
17       taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
18       the case of dairy cooperatives, if acquired and placed in service in this state during  
19       taxable years that begin after December 31, 2008, and before January 1, 2017:

20       **SECTION 5.** 71.07 (3p) (b) of the statutes is amended to read:

21       71.07 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this  
22       subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
23       beginning after December 31, 2006, and before January 1, 2015, a claimant may

1 claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount  
2 of the tax, an amount equal to 10 percent of the amount the claimant paid in the  
3 taxable year for dairy manufacturing modernization or expansion related to the  
4 claimant's dairy manufacturing operation.

5 **SECTION 6.** 71.07 (3p) (c) 2m. b. of the statutes is amended to read:

6 71.07 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed  
7 by all claimants, other than members of dairy cooperatives, under this subsection  
8 and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year  
9 thereafter, is \$700,000, as allocated under s. 560.207.

10 **SECTION 7.** 71.07 (3p) (c) 2m. bm. of the statutes is created to read:

11 71.07 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed  
12 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47  
13 (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
14 maximum amount of the credits that may be claimed by members of dairy  
15 cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year  
16 2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
17 560.207.

18 **SECTION 8.** 71.07 (3p) (c) 3. of the statutes is amended to read:

19 71.07 **(3p)** (c) 3. Partnerships, limited liability companies, and tax-option  
20 corporations, and dairy cooperatives may not claim the credit under this subsection,  
21 but the eligibility for, and the amount of, the credit are based on their payment of  
22 expenses under par. (b), except that the aggregate amount of credits that the entity  
23 may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
24 facilities. A partnership, limited liability company, or tax-option corporation, or  
25 dairy cooperative shall compute the amount of credit that each of its partners,

1 members, or shareholders may claim and shall provide that information to each of  
2 them. Partners, members of limited liability companies, and shareholders of  
3 tax-option corporations may claim the credit in proportion to their ownership  
4 interest. Members of a dairy cooperative may claim the credit in proportion to the  
5 amount of milk that each member delivers to the dairy cooperative, as determined  
6 by the dairy cooperative.

7 **SECTION 9.** 71.07 (3p) (c) 5. of the statutes is created to read:

8 71.07 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
9 the credit, based on amounts described under par. (b) that are paid by the dairy  
10 cooperative, for taxable years beginning after December 31, 2008, and before  
11 January 1, 2017.

12 **SECTION 10.** 71.07 (3p) (c) 6. of the statutes is created to read:

13 71.07 (3p) (c) 6. No credit may be allowed under this subsection unless the  
14 claimant submits with the claimant's return a copy of the claimant's credit  
15 certification and allocation under s. 560.207.

16 **SECTION 11.** 71.07 (3p) (d) 2. of the statutes is amended to read:

17 71.07 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
18 the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 ~~or no~~  
19 ~~tax is due under s. 71.02 or 71.08,~~ the amount of the claim not used to offset the tax  
20 due shall be certified by the department of revenue to the department of  
21 administration for payment by check, share draft, or other draft drawn from the  
22 appropriation account under s. 20.835 (2) (bn).

23 **SECTION 12.** 71.07 (3p) (d) 3. of the statutes is created to read:

24 71.07 (3p) (d) 3. With regard to claims that are based on amounts described  
25 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the



1 claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the  
2 amount of the claim not used to offset the tax due shall be certified by the department  
3 of revenue to the department of administration for payment by check, share draft,  
4 or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

5 **SECTION 13.** 71.28 (3p) (a) 1m. of the statutes is created to read:

6 71.28 (3p) (a) 1m. "Dairy cooperative" means a business organized under ch.  
7 185 or 193 for the purpose of obtaining or processing milk.

8 **SECTION 14.** 71.28 (3p) (a) 3. (intro.) of the statutes is amended to read:

9 71.28 (3p) (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
10 means constructing, improving, or acquiring buildings or facilities, or acquiring  
11 equipment, for dairy manufacturing, including the following, if used exclusively for  
12 dairy manufacturing and if acquired and placed in service in this state during  
13 taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
14 the case of dairy cooperatives, if acquired and placed in service in this state during  
15 taxable years that begin after December 31, 2008, and before January 1, 2017:

16 **SECTION 15.** 71.28 (3p) (b) of the statutes is amended to read:

17 71.28 (3p) (b) *Filing claims.* Subject to the limitations provided in this  
18 subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
19 beginning after December 31, 2006, and before January 1, 2015, a claimant may  
20 claim as a credit against the taxes imposed under s. 71.23, up to the amount of the  
21 tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
22 year for dairy manufacturing modernization or expansion related to the claimant's  
23 dairy manufacturing operation.

24 **SECTION 16.** 71.28 (3p) (c) 2m. b. of the statutes is amended to read:

1           71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed  
2   by all claimants, other than members of dairy cooperatives, under this subsection  
3   and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008-09, and in each fiscal year  
4   thereafter, is \$700,000, as allocated under s. 560.207.

5           **SECTION 17.** 71.28 (3p) (c) 2m. bm. of the statutes is created to read:

6           71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
7   by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47  
8   (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
9   maximum amount of the credits that may be claimed by members of dairy  
10   cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year  
11   2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
12   560.207.

13          **SECTION 18.** 71.28 (3p) (c) 3. of the statutes is amended to read:

14          71.28 (3p) (c) 3. Partnerships, limited liability companies, ~~and~~ tax-option  
15   corporations, and dairy cooperatives may not claim the credit under this subsection,  
16   but the eligibility for, and the amount of, the credit are based on their payment of  
17   expenses under par. (b), except that the aggregate amount of credits that the entity  
18   may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
19   facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
20   dairy cooperative shall compute the amount of credit that each of its partners,  
21   members, or shareholders may claim and shall provide that information to each of  
22   them. Partners, members of limited liability companies, and shareholders of  
23   tax-option corporations may claim the credit in proportion to their ownership  
24   interest. Members of a dairy cooperative may claim the credit in proportion to the

1 amount of milk that each member delivers to the dairy cooperative, as determined  
2 by the dairy cooperative.

3 **SECTION 19.** 71.28 (3p) (c) 5. of the statutes is created to read:

4 71.28 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
5 the credit, based on amounts described under par. (b) that are paid by the dairy  
6 cooperative, for taxable years beginning after December 31, 2008, and before  
7 January 1, 2017.

8 **SECTION 20.** 71.28 (3p) (c) 6. of the statutes is created to read:

9 71.28 (3p) (c) 6. No credit may be allowed under this subsection unless the  
10 claimant submits with the claimant's return a copy of the claimant's credit  
11 certification and allocation under s. 560.207.

12 **SECTION 21.** 71.28 (3p) (d) 2. of the statutes is amended to read:

13 71.28 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
14 the claim under par. (b) exceeds the tax otherwise due under s. 71.23 ~~or no tax is due~~  
15 ~~under s. 71.23,~~ the amount of the claim not used to offset the tax due shall be certified  
16 by the department of revenue to the department of administration for payment by  
17 check, share draft, or other draft drawn from the appropriation account under s.  
18 20.835 (2) (bn).

19 **SECTION 22.** 71.28 (3p) (d) 3. of the statutes is created to read:

20 71.28 (3p) (d) 3. With regard to claims that are based on amounts described  
21 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
22 claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the  
23 claim not used to offset the tax due shall be certified by the department of revenue  
24 to the department of administration for payment by check, share draft, or other draft  
25 drawn from the appropriation account under s. 20.835 (2) (bp).

1       **SECTION 23.** 71.47 (3p) (a) 1m. of the statutes is created to read:

2       71.47 **(3p)** (a) 1m. "Dairy cooperative" means a business organized under ch.  
3       185 or 193 for the purpose of obtaining or processing milk.

4       **SECTION 24.** 71.47 (3p) (a) 3. (intro.) of the statutes is amended to read:

5       71.47 **(3p)** (a) 3. (intro.) "Dairy manufacturing modernization or expansion"  
6       means constructing, improving, or acquiring buildings or facilities, or acquiring  
7       equipment, for dairy manufacturing, including the following, if used exclusively for  
8       dairy manufacturing and if acquired and placed in service in this state during  
9       taxable years that begin after December 31, 2006, and before January 1, 2015, or, in  
10      the case of dairy cooperatives, if acquired and placed in service in this state during  
11      taxable years that begin after December 31, 2008, and before January 1, 2017:

12      **SECTION 25.** 71.47 (3p) (b) of the statutes is amended to read:

13      71.47 **(3p)** (b) *Filing claims.* Subject to the limitations provided in this  
14      subsection and s. 560.207, except as provided in par. (c) 5., for taxable years  
15      beginning after December 31, 2006, and before January 1, 2015, a claimant may  
16      claim as a credit against the taxes imposed under s. 71.43, up to the amount of the  
17      tax, an amount equal to 10 percent of the amount the claimant paid in the taxable  
18      year for dairy manufacturing modernization or expansion related to the claimant's  
19      dairy manufacturing operation.

20      **SECTION 26.** 71.47 (3p) (c) 2m. b. of the statutes is amended to read:

21      71.47 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed  
22      by all claimants, other than members of dairy cooperatives, under this subsection  
23      and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008-09, and in each fiscal year  
24      thereafter, is \$700,000, as allocated under s. 560.207.

25      **SECTION 27.** 71.47 (3p) (c) 2m. bm. of the statutes is created to read:

1           71.47 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed  
2       by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28  
3       (3p) in fiscal year 2009-10 is \$600,000, as allocated under s. 560.207, and the  
4       maximum amount of the credits that may be claimed by members of dairy  
5       cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year  
6       2010-11, and in each fiscal year thereafter, is \$700,000, as allocated under s.  
7       560.207.

8           **SECTION 28.** 71.47 (3p) (c) 3. of the statutes is amended to read:

9           71.47 (3p) (c) 3. Partnerships, limited liability companies, and tax-option  
10       corporations, and dairy cooperatives may not claim the credit under this subsection,  
11       but the eligibility for, and the amount of, the credit are based on their payment of  
12       expenses under par. (b), except that the aggregate amount of credits that the entity  
13       may compute shall not exceed \$200,000 for each of the entity's dairy manufacturing  
14       facilities. A partnership, limited liability company, ~~or~~ tax-option corporation, or  
15       dairy cooperative shall compute the amount of credit that each of its partners,  
16       members, or shareholders may claim and shall provide that information to each of  
17       them. Partners, members of limited liability companies, and shareholders of  
18       tax-option corporations may claim the credit in proportion to their ownership  
19       interest. Members of a dairy cooperative may claim the credit in proportion to the  
20       amount of milk that each member delivers to the dairy cooperative, as determined  
21       by the dairy cooperative.

22           **SECTION 29.** 71.47 (3p) (c) 5. of the statutes is created to read:

23           71.47 (3p) (c) 5. A claimant who is a member of a dairy cooperative may claim  
24       the credit, based on amounts described under par. (b) that are paid by the dairy

1 cooperative, for taxable years beginning after December 31, 2008, and before  
2 January 1, 2017.

3 **SECTION 30.** 71.47 (3p) (c) 6. of the statutes is created to read:

4 71.47 (3p) (c) 6. No credit may be allowed under this subsection unless the  
5 claimant submits with the claimant's return a copy of the claimant's credit  
6 certification and allocation under s. 560.207.

7 **SECTION 31.** 71.47 (3p) (d) 2. of the statutes is amended to read:

8 71.47 (3p) (d) 2. If Except as provided in subd. 3., if the allowable amount of  
9 the claim under par. (b) exceeds the tax otherwise due under s. 71.43 ~~or no tax is due~~  
10 ~~under s. 71.43,~~ the amount of the claim not used to offset the tax due shall be certified  
11 by the department of revenue to the department of administration for payment by  
12 check, share draft, or other draft drawn from the appropriation account under s.  
13 20.835 (2) (bn).

14 **SECTION 32.** 71.47 (3p) (d) 3. of the statutes is created to read:

15 71.47 (3p) (d) 3. With regard to claims that are based on amounts described  
16 under par. (b) that are paid by a dairy cooperative, if the allowable amount of the  
17 claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the  
18 claim not used to offset the tax due shall be certified by the department of revenue  
19 to the department of administration for payment by check, share draft, or other draft  
20 drawn from the appropriation account under s. 20.835 (2) (bp).

21 **SECTION 33.** 560.207 (1) of the statutes is amended to read:

22 560.207 (1) The department of commerce shall implement a program to certify  
23 taxpayers, including taxpayers who are members of dairy cooperatives, as eligible  
24 for the dairy manufacturing facility investment credit under ss. 71.07 (3p), 71.28  
25 (3p), and 71.47 (3p).

**SECTION 34.** 560.207 (2) of the statutes is amended to read:

560.207 (2) If the department of commerce certifies a taxpayer under sub. (1), the department of commerce shall determine the amount of credits to allocate to that taxpayer. The total amount of dairy manufacturing facility investment credits allocated to taxpayers in fiscal year 2007-08 may not exceed \$600,000 and the total amount of dairy manufacturing facility investment credits allocated to taxpayers who are not members of dairy cooperatives in fiscal year 2008-09, and in each fiscal year thereafter, may not exceed \$700,000. The total amount of dairy manufacturing facility investment credits allocated to taxpayers who are members of dairy cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total amount of dairy manufacturing facility investment credits allocated to taxpayers who are members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year thereafter, may not exceed \$700,000.

**(END)**